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Ronald Binz
Director

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Roy Romer
Governor
Joseph A. Garcia
Executive Director

November 28, 1994

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Dear Mr. Caton:

On October 14, 1994 Ron Binz and Debra Berlyn, on behalf of the Colorado Office of Consumer Counsel and the National Association of State Utility Consumer Advocates, met with Mr. Jim Casserly of Commissioner Ness's staff to discuss Billed Party Preference and the Price Cap Rules.

Mr. Binz and Ms. Berlyn provided a copy of NASUCA's resolution on Billed Party Preference and expressed NASUCA's views of certain LEC proposed modifications to the Price Cap Rules. The views expressed are contained in NASUCA resolutions 1991-13 and 1994-01. A copy of both resolutions is attached.

Sincerely,

Ronald J. Binz
Director

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NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

Resolving That State And Federal Regulators Should Adhere To Cost Of Service Principles, Including Fair Rate Of Return, In Setting Rates For Telecommunications Services At Least Until It Is Proven That Competition In The Telecommunications Industry Is Sufficient To Constrain Earned Rates Of Return To Market Levels And Ensure That Prices for Individual Services Are Fair

- WHEREAS, State and Federal regulators are experimenting with a variety of alternative methods of regulating prices for services of telecommunications providers; and
- WHEREAS, Such alternative methods of regulation include price cap regulation, social contract regulation, incentive regulation, sharing of excess profits and pricing flexibility, among others; and
- WHEREAS, The essential goal of the economic regulation of telecommunications providers is to produce just and reasonable prices for consumers with limited access to competitive alternatives; and
- WHEREAS, The rate of return earned by firms in a competitive marketplace is constrained in the long run to a "market" level; and
- WHEREAS, The theoretically correct measure of the fairness of prices charged by a firm with market power is the rate of return earned by such a firm; and
- WHEREAS, The essential fairness of using cost of service as determined by regulatory agencies and fair rates of return in setting utility rates has been elucidated by the Supreme Court in a number of cases, including Munn vs Illinois, FPC vs. Hope Natural Gas Company, and Duquesne vs. Barasch; and

WHEREAS, Persistent earnings levels in excess of market returns indicate that regulated firms are exerting dominant market power, that regulation has failed to produce prices similar to those of the competitive marketplace, and that consumers are paying excessive rates; and

WHEREAS, Many of the regulatory experiments do not adequately consider cost of service in setting rates nor do they attempt to limit earned rates of return for the regulated firm to market levels.

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates (NASUCA) calls upon State and Federal regulators to adhere to cost of service principles, including fair rate of return, in setting rates for telecommunications services at least until it is proven that competition is sufficient to constrain earned rates of return to market levels and to ensure the fairness of prices for individual services.

BE IT FURTHER RESOLVED that NASUCA calls upon Federal and State regulators to include mechanisms in any alternative form of regulation which ensure that regulated firms charge prices no higher than their cost of service and that the alternative form of regulation does not permit a firm's earned return to exceed market levels persistently.

BE IT FURTHER RESOLVED that NASUCA opposes alternative methods of regulation which ignore the importance of a regulated firm's earned rate of return or the firm's cost of service in setting overall price levels.

BE IT FURTHER RESOLVED that NASUCA authorizes the Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

Seattle, WA
Place

May 21, 1991
Date

Submitted by:

NASUCA Telecommunications Committee

Committee Members:

Jack Shreve (FL), Chairman
Dan Ahrens (MN)
Ron Binz (CO)
Doug Brooks (AZ)
David Conn (IA)
John Glynn (MD)
Martha Hogerty (MO)
Bob Johnson (IN)
Karen Lusean (IL)
Phil McClelland (PA)
Michael McRae (DC)
Phil Shapiro (NY)
Bruce Weston (OH)

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging the Adoption of a Billed Party Preference
System for 0+ InterLATA Calls**

- WHEREAS, currently "0+" calls, including calling card, collect and third-party billing calls, from payphones, hotels, motels, airports, prisons and other aggregator locations are sent to the operator services provider (OSP) to which the premises owner or payphone provider presubscribes;
- WHEREAS, OSPs generally compete for premises owners and payphone providers by offering commissions on 0+ calls made from the phones presubscribed to them, rather than competing for end users on the basis of price and quality of the service offered to the consumer;
- WHEREAS, customers are currently able to select an OSP of their choice when using a payphone or telephone at an aggregator location only by dialing 10XXX or other access codes prior to dialing zero plus the number being called;
- WHEREAS, the use of 10XXX and other access codes may be intentionally or unintentionally restricted at certain payphones and aggregator locations and such dialing can be confusing to customers;
- WHEREAS, consumer advocates, state commissions and federal regulators have received many complaints over the level of charges from resulting from unintended or inadvertent selection of an OSP at a payphone, hotel, motel, airport or other aggregator location;
- WHEREAS, consumer advocates, state commissions and federal regulators have received complaints from billed parties over the level of charges from OSPs from collect calls originating from prisons and jails;

WHEREAS, Billed Party Preference allows the billed party to use the carrier of his or her choice by having calling cards presubscribed, and having collect and third party calls routed via the party's chosen carrier;

WHEREAS, Billed Party Preference would require OSPs to shift their competitive focus from the aggregators, such as premises owners or payphone providers, to the end users who actually pay for the service;

WHEREAS, the Federal Communications Commission estimated, in a November 1992 report pursuant to the Telephone Operator Consumer Services Information Act, that Billed Party Preference would likely enable consumers to save \$280 million per year by avoiding OSPs with rates higher than the AT&T/MCI/Sprint average;

WHEREAS, Billed Party Preference should result in increased customer satisfaction over prices charged and quality of service provided and would eliminate customer confusion;

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates urges the adoption of a ubiquitous system of Billed Party Preference for all 0+ calling from all paystations, motels, hotels, airports, prisons and other aggregator locations nationwide, and from all private business and residence phones;

AND, BE IT FURTHER RESOLVED, that NASUCA shall file a copy of this resolution with the Federal Communications Commission in its docket examining Billed Party Preference;

AND, BE IT FURTHER RESOLVED that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA

Santa Fe, New Mexico
Place

June 21, 1994
Date

Submitted by:
NASUCA Telecommunications
Committee

Ron Binz (CO), Chair
Suzanne Antley (AR)
Charlie Beck (FL)
David Bergmann (OH)
David Conn (IA)
Regina Costa (CA)
Terry Czarski (MD)
Elliott Elam (SC)
Mike Griffin (NV)
Wayne Jortner (ME)
Philip McClelland (PA)
Michael McRae (DC)
Robert Piller (NY)
Tim Seat (IN)
Philip Shapiro (NY)
Deborah Waldbaum (CO)
Walter Washington (TX)